

Introduced by Senator Scott

February 18, 2004

An act to amend Section 7810 of, and to add Section 7660.5 to, the Family Code, and to amend Sections 293, 827, and 18965 of, and to add Sections 300.3 and 16003.5 to, the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

SB 1357, as introduced, Scott. Foster care.

Existing law provides that if a mother relinquishes for or consents to the adoption of a child who has a presumed father, the father shall be given notice of the adoption proceeding unless the father's relationship to the child has been previously terminated or determined by a court not to exist or the father has voluntarily relinquished for or consented to the adoption of the child.

Existing federal law, the Indian Child Welfare Act, governs proceedings to determine the custody or adoption placement of any child who is a member of, or eligible for membership in, an Indian tribe.

Existing law provides that juvenile court records are confidential and authorizes only specified persons to view those records without a court order. Members of multidisciplinary personnel teams, which consist of persons who are trained in the prevention, identification, and treatment of child abuse and neglect cases, are authorized to examine those records. Existing law also authorizes certain persons, including foster parents and relative caregivers, to attend hearings conducted by the juvenile court to review the status of a dependent child. Existing law requires social workers or probation officers to give notice of the review hearings to specified persons, including foster parents and relative

caregivers, in the case of a child who is removed from the physical custody of his or her parent or guardian.

Existing law requires each community college district that offers a foster care education program to make available orientation and training to relative caregivers and nonrelative extended family member caregivers into whose care the county has placed a foster child, including specified courses.

This bill would provide that if a presumed father waives, renounces, or denies the existence of a parent and child relationship, as specified, no notice, relinquishment for or consent to the adoption of the child shall be required for the adoption proceeding to proceed.

The bill would authorize a birth parent to relinquish for or consent to the adoption of a child who is or may be an Indian by an instrument that expressly states that the relinquishment for or consent to the adoption is void by operation of law if it is subsequently determined that the Indian Child Welfare Act applies.

The bill would make other changes in the provisions relating to foster care. Among other things, the bill would authorize a minor's foster parents and relative caregivers to examine the minor's juvenile court records and to attend meetings of a multidisciplinary team, as specified. The bill would specifically require that the notice provided to a foster parent or relative caregiver regarding status review hearings indicate that the person may address the court. The bill would require community college districts that offer a foster care education program to include coursework regarding dependency court processes and procedures and the role of foster parents and relative caregivers.

The bill would require that a social worker or a probation officer provide notice of status review hearings to persons who are actually caring for a child who has been removed from the physical custody of his or her parent or guardian. By imposing new duties on county employees, the bill would impose a state-mandated local program.

The bill would also require the Judicial Council to adopt procedures to enable persons who are not parties to a dependency proceeding to obtain the information required for completing and filing any petition, motion, request, or other form that they are authorized to file in that proceeding, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund



to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7660.5 is added to the Family Code, to
2 read:

3 7660.5. Notwithstanding any other provision of law, if a
4 presumed father waives, renounces, or denies the existence of a
5 parent and child relationship in writing by a document executed
6 before a notary public or other person authorized to perform
7 notarial acts, no notice, relinquishment for, or consent to adoption
8 of the child shall be required from him for the adoption proceeding
9 to proceed.

10 SEC. 2. Section 7810 of the Family Code is amended to read:

11 7810. (a) The Legislature finds and declares the following:

12 (1) There is no resource that is more vital to the continued
13 existence and integrity of recognized Indian tribes than their
14 children, and the State of California has an interest in protecting
15 Indian children who are members of, or are eligible for
16 membership in, an Indian tribe.

17 (2) It is in the interest of an Indian child that the child's
18 membership in the child's Indian tribe and connection to the tribal
19 community be encouraged and protected.

20 (b) In all Indian child custody proceedings, as defined in the
21 federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), the
22 court shall consider all of the findings contained in subdivision (a),
23 strive to promote the stability and security of Indian tribes and
24 families, comply with the federal Indian Child Welfare Act, and
25 seek to protect the best interest of the child.

26 (c) A determination by an Indian tribe that an unmarried
27 person, who is under the age of 18 years, is either (1) a member of
28 an Indian tribe or (2) eligible for membership in an Indian tribe and

1 a biological child of a member of an Indian tribe shall constitute
2 a significant political affiliation with the tribe and shall require the
3 application of the federal Indian Child Welfare Act (25 U.S.C. Sec.
4 1901 et seq.) to the proceedings.

5 *(d) If a child has, or may have, Indian ancestry, but it has not*
6 *yet been determined whether the federal Indian Child Welfare Act*
7 *applies by the time of the child's birth, the birth parent or birth*
8 *parents may execute a consent to or relinquishment for the child's*
9 *adoption by an instrument which expressly states that it is*
10 *conditional upon a later determination of the applicability of the*
11 *act. If the act is subsequently determined to apply, the conditional*
12 *consent or relinquishment is void by operation of law and a new*
13 *consent or relinquishment shall be executed in conformity with the*
14 *act. An order of adoption may not be entered unless the court finds*
15 *that the child is not subject to the act.*

16 SEC. 3. Section 293 of the Welfare and Institutions Code is
17 amended to read:

18 293. The social worker or probation officer shall give notice
19 of the review hearings held pursuant to Section 366.21 or 366.22
20 in the following manner:

21 (a) Notice of the hearing shall be given to the following
22 persons:

23 (1) The mother.

24 (2) The presumed father or any father receiving services.

25 (3) The legal guardian or guardians.

26 (4) The child, if the child is 10 years of age or older.

27 (5) Any known sibling of the child who is the subject of the
28 hearing if that sibling either is the subject of a dependency
29 proceeding or has been adjudged to be a dependent child of the
30 juvenile court. If the sibling is 10 years of age or older, the sibling,
31 the sibling's caregiver, and the sibling's attorney. If the sibling is
32 under 10 years of age, the sibling's caregiver and the sibling's
33 attorney. However, notice is not required to be given to any sibling
34 whose matter is calendared in the same court on the same day.

35 (6) In the case of a child removed from the physical custody of
36 his or her parent or legal guardian, the foster parents, relative
37 caregivers, community care facility, ~~or~~ foster family agency
38 having physical custody of the child, *and any other person who is*
39 *actually caring for the child.*

(7) Each attorney of record if that attorney was not present at the time that the hearing was set by the court.

(8) If the court knows or has reason to know that an Indian child is involved, then to the Indian custodian and the tribe of that child. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the Bureau of Indian Affairs.

(b) No notice is required for a parent whose parental rights have been terminated.

(c) The notice of hearing shall be served not earlier than 30 days, nor later than 15 days, before the hearing. In the case of an Indian child, if notice is given to the Bureau of Indian Affairs, the bureau shall have 15 days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe.

(d) (1) The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the child being recommended by the supervising agency. If the notice is to the child, parent or parents, or legal guardian or guardians, the notice shall also advise them of the right to be present, the right to be represented by counsel, the right to request counsel, and the right to present evidence. The notice shall also state that if the parent or parents or legal guardian or guardians fail to appear, the court may proceed without them.

(2) In the case of an Indian child, the notice shall contain a statement that the parent or Indian custodian and the tribe have a right to intervene at any point in the proceedings. The notice shall also include a statement that the parent or Indian custodian and the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceedings.

(e) (1) Service of the notice shall be by first-class mail addressed to the last known address of the person to be noticed or by personal service on the person. Service of a copy of the notice shall be by personal service or by certified mail, return receipt requested, or any other form of notice that is equivalent to service by first-class mail.

(2) In the case of an Indian child, notice shall be by registered mail, return receipt requested.

(f) Notice to a foster parent, a relative caregiver, a certified foster parent who has been approved for adoption, or the State Department of Social Services when it is acting as an adoption

1 agency in counties that are not served by a county adoption agency
2 or by a licensed county adoption agency, shall indicate that the
3 person notified may attend all hearings *and may address the court*,
4 or may submit any information he or she deems relevant to the
5 court in writing.

6 SEC. 4. Section 300.3 is added to the Welfare and Institutions
7 Code, to read:

8 300.3. On or before January 1, 2005, the Judicial Council
9 shall adopt procedures to enable a nonparty to a dependency
10 proceeding, to obtain case-specific information that is required in
11 order to complete and file any petition, motion, request, or other
12 form approved by the Judicial Council that the nonparty is
13 authorized to file in that proceeding. Examples of specific
14 information that may be obtained pursuant to this section, include,
15 but are not limited to, all of the following:

16 (a) The juvenile court case number and courtroom number or
17 department number where the case is pending; names and
18 addresses of parties to the action and attorneys of record that are
19 required in order to comply with applicable notice and
20 service-of-process requirements.

21 (b) The date a child was detained or removed, or the fact that
22 a child was not detained or removed.

23 (c) The date of a hearing or court order relevant to the purposes
24 for which the person is seeking to file a court form.

25 (d) The code sections under which the allegations of a juvenile
26 dependency petition were made, if the information is required on
27 the face of the form.

28 (e) Any other specified information sought on the face of the
29 form that is legally required for completion and service of the
30 form.

31 SEC. 5. Section 827 of the Welfare and Institutions Code is
32 amended to read:

33 827. (a) (1) Except as provided in Section 828, a case file
34 may be inspected only by the following:

35 (A) Court personnel.

36 (B) The district attorney, a city attorney, or city prosecutor
37 authorized to prosecute criminal or juvenile cases under state law.

38 (C) The minor who is the subject of the proceeding.

39 (D) His or her parents or guardian *and his or her foster parent*
40 *or relative caregiver*.

1 (E) The attorneys for the parties, and judges, referees, other
2 hearing officers, probation officers and law enforcement officers
3 who are actively participating in criminal or juvenile proceedings
4 involving the minor.

5 (F) The superintendent or designee of the school district where
6 the minor is enrolled or attending school.

7 ~~(G) Members of the child protective agencies as defined in~~
8 ~~Section 11165.9 of the Penal Code—A police or sheriff's~~
9 ~~department, a county probation department, or a county welfare~~
10 ~~department.~~

11 (H) The State Department of Social Services to carry out its
12 duties pursuant to Division 9 (commencing with Section 10000),
13 and Part 5 (commencing with Section 7900) of Division 12 of the
14 Family Code to oversee and monitor county child welfare
15 agencies, children in foster care or receiving foster care assistance,
16 and out-of-state placements.

17 (I) To authorized legal staff or special investigators who are
18 peace officers who are employed by, or who are authorized
19 representatives of, the State Department of Social Services, as
20 necessary to the performance of their duties to inspect, license, and
21 investigate community care facilities, and to ensure that the
22 standards of care and services provided in those facilities are
23 adequate and appropriate and to ascertain compliance with the
24 rules and regulations to which the facilities are subject. The
25 confidential information shall remain confidential except for
26 purposes of inspection, licensing, or investigation pursuant to
27 Chapter 3 (commencing with Section 1500) and Chapter 3.4
28 (commencing with Section 1596.70) of Division 2 of the Health
29 and Safety Code, or a criminal, civil, or administrative proceeding
30 in relation thereto. The confidential information may be used by
31 the State Department of Social Services in a criminal, civil, or
32 administrative proceeding. The confidential information shall be
33 available only to the judge or hearing officer and to the parties to
34 the case. Names that are confidential shall be listed in attachments
35 separate to the general pleadings. The confidential information
36 shall be sealed after the conclusion of the criminal, civil, or
37 administrative hearings, and shall not subsequently be released
38 except in accordance with this subdivision. If the confidential
39 information does not result in a criminal, civil, or administrative
40 proceeding, it shall be sealed after the State Department of Social

1 Services decides that no further action will be taken in the matter
2 of suspected licensing violations. Except as otherwise provided in
3 this subdivision, confidential information in the possession of the
4 State Department of Social Services shall not contain the name of
5 the minor.

6 (J) Members of children's multidisciplinary teams, persons or
7 agencies providing treatment or supervision of the minor.

8 (K) A judge, commissioner, or other hearing officer assigned
9 to a family law case with issues concerning custody or visitation,
10 or both, involving the minor, and the following persons, if actively
11 participating in the family law case: a family court mediator
12 assigned to a case involving the minor pursuant to Article 1
13 (commencing with Section 3160) of Chapter 11 of Part 2 of
14 Division 8 of the Family Code, a court-appointed evaluator or a
15 person conducting a court-connected child custody evaluation,
16 investigation, or assessment pursuant to Section 3118 of the
17 Family Code, and counsel appointed for the minor in the family
18 law case pursuant to Section 3150 of the Family Code. Prior to
19 allowing counsel appointed for the minor in the family law case to
20 inspect the file, the court clerk may require counsel to provide a
21 certified copy of the court order appointing him or her as the
22 minor's counsel.

23 (L) Juvenile justice commissions as established under Section
24 225. The confidentiality provisions of Section 10850 shall apply
25 to a juvenile justice commission and its members.

26 (M) Any other person who may be designated by court order
27 of the judge of the juvenile court upon filing a petition.

28 (2) Notwithstanding any other law and subject to subparagraph
29 (A) of paragraph (3), juvenile case files, except those relating to
30 matters within the jurisdiction of the court pursuant to Section 601
31 or 602, which pertain to a deceased child who was within the
32 jurisdiction of the juvenile court pursuant to Section 300, shall be
33 released to the public pursuant to an order by the juvenile court
34 after a petition has been filed and interested parties have been
35 afforded an opportunity to file an objection. Any information
36 relating to another child or which could identify another child,
37 except for information about the deceased, shall be redacted from
38 the juvenile case file prior to release, unless a specific order is
39 made by the juvenile court to the contrary. Except as provided in
40 this paragraph, the presiding judge of the juvenile court may issue



1 an order prohibiting or limiting access to the juvenile case file, or
2 any portion thereof, of a deceased child only upon a showing that
3 release of the juvenile case file or any portion thereof is
4 detrimental to the safety, protection, or physical, or emotional
5 well-being of another child who is directly or indirectly connected
6 to the juvenile case that is the subject of the petition.

7 (3) Access to juvenile case files pertaining to matters within the
8 jurisdiction of the juvenile court pursuant to Section 300 shall be
9 limited as follows:

10 (A) If a juvenile case file, or any portion thereof, is privileged
11 or confidential pursuant to any other state law or federal law or
12 regulation, the requirements of that state law or federal law or
13 regulation prohibiting or limiting release of the juvenile case file
14 or any portions thereof shall prevail. Unless a person is listed in
15 subparagraphs (A) to (L), inclusive, of paragraph (1) and is
16 entitled to access under the other state law or federal law or
17 regulation without a court order, all those seeking access, pursuant
18 to other authorization, to portions of, or information relating to the
19 contents of, juvenile case files protected under another state law
20 or federal law or regulation, shall petition the juvenile court. The
21 juvenile court may only release the portion of, or information
22 relating to the contents of, juvenile case files protected by another
23 state law or federal law or regulation if disclosure is not
24 detrimental to the safety, protection, or physical or emotional
25 well-being of a child who is directly or indirectly connected to the
26 juvenile case that is the subject of the petition. This paragraph shall
27 not be construed to limit the ability of the juvenile court to carry
28 out its duties in conducting juvenile court proceedings.

29 (B) Prior to the release of the juvenile case file or any portion
30 thereof, the court shall afford due process, including a notice of
31 and an opportunity to file an objection to the release of the record
32 or report to all interested parties.

33 (4) A juvenile case file, any portion thereof, and information
34 relating to the content of the juvenile case file, shall not be
35 disseminated by the receiving agencies to any persons or agencies,
36 other than those persons or agencies authorized to receive
37 documents pursuant to this section. Further, a juvenile case file,
38 any portion thereof, and information relating to the content of the
39 juvenile case file, shall not be made as an attachment to any other
40 documents without the prior approval of the presiding judge of the



1 juvenile court, unless it is used in connection with and in the course
2 of a criminal investigation or a proceeding brought to declare a
3 person a dependent child or ward of the juvenile court.

4 (b) (1) While the Legislature reaffirms its belief that juvenile
5 court records, in general, should be confidential, it is the intent of
6 the Legislature in enacting this subdivision to provide for a limited
7 exception to juvenile court record confidentiality to promote more
8 effective communication among juvenile courts, family courts,
9 law enforcement agencies, and schools to ensure the rehabilitation
10 of juvenile criminal offenders as well as to lessen the potential for
11 drug use, violence, other forms of delinquency, and child abuse.

12 (2) Notwithstanding subdivision (a), written notice that a
13 minor enrolled in a public school, kindergarten to grade 12,
14 inclusive, has been found by a court of competent jurisdiction to
15 have committed any felony or any misdemeanor involving curfew,
16 gambling, alcohol, drugs, tobacco products, carrying of weapons,
17 a sex offense listed in Section 290 of the Penal Code, assault or
18 battery, larceny, vandalism, or graffiti shall be provided by the
19 court, within seven days, to the superintendent of the school
20 district of attendance. Written notice shall include only the offense
21 found to have been committed by the minor and the disposition of
22 the minor's case. This notice shall be expeditiously transmitted by
23 the district superintendent to the principal at the school of
24 attendance. The principal shall expeditiously disseminate the
25 information to those counselors directly supervising or reporting
26 on the behavior or progress of the minor. In addition, the principal
27 shall disseminate the information to any teacher or administrator
28 directly supervising or reporting on the behavior or progress of the
29 minor whom the principal believes needs the information to work
30 with the pupil in an appropriate fashion, to avoid being needlessly
31 vulnerable or to protect other persons from needless vulnerability.

32 Any information received by a teacher, counselor, or
33 administrator under this subdivision shall be received in
34 confidence for the limited purpose of rehabilitating the minor and
35 protecting students and staff, and shall not be further disseminated
36 by the teacher, counselor, or administrator, except insofar as
37 communication with the juvenile, his or her parents or guardians,
38 law enforcement personnel, and the juvenile's probation officer is
39 necessary to effectuate the juvenile's rehabilitation or to protect
40 students and staff.



1 An intentional violation of the confidentiality provisions of this
2 paragraph is a misdemeanor punishable by a fine not to exceed five
3 hundred dollars (\$500).

4 (3) If a minor is removed from public school as a result of the
5 court's finding described in subdivision (b), the superintendent
6 shall maintain the information in a confidential file and shall defer
7 transmittal of the information received from the court until the
8 minor is returned to public school. If the minor is returned to a
9 school district other than the one from which the minor came, the
10 parole or probation officer having jurisdiction over the minor shall
11 so notify the superintendent of the last district of attendance, who
12 shall transmit the notice received from the court to the
13 superintendent of the new district of attendance.

14 (c) Each probation report filed with the court concerning a
15 minor whose record is subject to dissemination pursuant to
16 subdivision (b) shall include on the face sheet the school at which
17 the minor is currently enrolled. The county superintendent shall
18 provide the court with a listing of all of the schools within each
19 school district, within the county, along with the name and mailing
20 address of each district superintendent.

21 (d) Each notice sent by the court pursuant to subdivision (b)
22 shall be stamped with the instruction: "Unlawful Dissemination
23 Of This Information Is A Misdemeanor." Any information
24 received from the court shall be kept in a separate confidential file
25 at the school of attendance and shall be transferred to the minor's
26 subsequent schools of attendance and maintained until the minor
27 graduates from high school, is released from juvenile court
28 jurisdiction, or reaches the age of 18, whichever occurs first. After
29 that time the confidential record shall be destroyed. At any time
30 after the date by which a record required to be destroyed by this
31 section should have been destroyed, the minor or his or her parent
32 or guardian shall have the right to make a written request to the
33 principal of the school that the minor's school records be reviewed
34 to ensure that the record has been destroyed. Upon completion of
35 any requested review and no later than 30 days after the request for
36 the review was received, the principal or his or her designee shall
37 respond in writing to the written request and either shall confirm
38 that the record has been destroyed or, if the record has not been
39 destroyed, shall explain why destruction has not yet occurred.



1 Except as provided in paragraph (2) of subdivision (b), no
2 liability shall attach to any person who transmits or fails to transmit
3 any notice or information required under subdivision (b).

4 (e) For purposes of this section, a “juvenile case file” means
5 a petition filed in any juvenile court proceeding, reports of the
6 probation officer, and all other documents filed in that case or
7 made available to the probation officer in making his or her report,
8 or to the judge, referee, or other hearing officer, and thereafter
9 retained by the probation officer, judge, referee, or other hearing
10 officer.

11 SEC. 6. Section 16003.5 is added to the Welfare and
12 Institutions Code, to read:

13 16003.5. Each community college district that offers a foster
14 care education program shall make available to each foster parent
15 or relative caregiver or nonrelative extended family member
16 caregiver into whose care the county has placed a foster child
17 courses that include coursework regarding dependency court
18 processes and procedures and the role of foster parents and
19 caregivers.

20 SEC. 7. Section 18965 of the Welfare and Institutions Code
21 is amended to read:

22 18965. (a) Notwithstanding any provision of law governing
23 the disclosure of information and records, including, but not
24 limited to, Section 5328 of the Welfare and Institutions Code, a
25 person who is trained and qualified to serve on a multidisciplinary
26 personnel team pursuant to subdivision (d) of Section 18951,
27 whether or not the person is serving on a team, may be deemed, by
28 the team, to be part of the team as necessary for the purpose of the
29 prevention, identification, management, or treatment of an abused
30 child and his or her parents. The designated team may deem a
31 person to be a member of the team for a particular case, and that
32 team shall specify its reasons, in writing, for deeming that person
33 to be a member of the team. The person, when deemed a member
34 of the team, may receive and disclose information relevant to a
35 particular case as though he or she were a member of the team. The
36 information and records which may be disclosed shall not be
37 restricted to those obtained in the course of providing services
38 pursuant to this chapter.



1 ***(b) The foster parent or relative caregiver of the child shall be***
2 ***permitted to attend meetings of the multidisciplinary personnel***
3 ***team.***

4 SEC. 8. Notwithstanding Section 17610 of the Government
5 Code, if the Commission on State Mandates determines that this
6 act contains costs mandated by the state, reimbursement to local
7 agencies and school districts for those costs shall be made pursuant
8 to Part 7 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the claim for
10 reimbursement does not exceed one million dollars (\$1,000,000),
11 reimbursement shall be made from the State Mandates Claims
12 Fund.

